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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/706,469	11/12/2003	Alicia Rodriguez-Jorge	1.189.02	6743

7590 11/30/2005

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EXAMINER

PATEL, TAJASH D

ART UNIT	PAPER NUMBER
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3765

DATE MAILED: 11/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/706,469

Applicant(s)

RODRIGUEZ-JORGE ET AL.

Examiner

Tejash D. Patel

Art Unit

3765

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-25 and 29-36 is/are rejected.
- 7) ☒ Claim(s) 6 and 26-28 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>5/18/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-5, 7-10, 19, 29-35 are rejected under 35 U.S.C. 102(e) as being anticipated by Tsang (US 3,745,614).

Tsang discloses a necktie assembly including a base member (14) and a face member disposed in at least partially overlying and a movably interconnection to the base member with a partially defined opening formed between the base and the face members as shown in figure 5. Further, an attachment mechanism (62) is partially interconnected in an operable orientation to the base member to an inner surface thereof that is structured to engage an overlying (52) and an underlying (50) portion of a necktie relative to a partial knot that passes through the opening as shown in figures 8, 9, and 10. Also, the base member forms a convex outer surface as shown in figure 5 and the base member and the face member are interconnected by a tongue and groove fastener (32). Further, the face member defines a substantially planar outer surface as shown in figure 10.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 11-15, 20-25 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tsang in view of Gideon (US 3,964,105). Tsang discloses the invention as set forth above except for showing the face member having decorative ornaments thereon with the attachment mechanism having a biasing element.

Gideon discloses necktie assembly including a face member having an attachment mechanism (52) with a biasing element (78) that is disposable between an uncompressed and compressed configurations, col. 2, lines 35-38 and as shown in figures 3 and 5.

Further, the face member has decorative ornaments such as jewels/gemstones on an outer surface (22), col. 1, lines 30-33 and lines 65-68.

With regard to claims 11-15, it would have been obvious to one skilled in the art at the time the invention was made to provide the face member of Tsang with a decorative ornaments such as gemstones, etc as a matter of design choice or depending on the end use thereof.

Further, with regard to claims 20-25 and 36, it would have been obvious to one skilled in the art to substitute the attachment mechanism of Tsang with an attachment member having a biasing element as an alternative but equivalent means of securing a portion of the necktie as known in the art or depending on the particular end application thereof.

5. Claims 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tsang in view of Dorkin (US 5,216,757). Tsang discloses the invention as set forth above except for showing an auxiliary face plate attached to the face member.

Dorkin discloses a necktie assembly including a material which resembles a tie (20) that is attached to an outer surface (124) of a face member, col. 7, lines 17-20.

It would have been obvious to one skilled in the art at the time the invention was made to provide the face member of Tsang with an auxiliary face plate attached to the face member as taught by Dorkin as a matter of design choice or depending on the end use thereof. Furthermore, it would have been obvious to substitute the face member of the necktie assembly of Tsang when viewed with Dorkin having a material which resembles a tie with any desired ornaments, etc. as required for a particular application thereof.

Allowable Subject Matter

6. Claims 6 and 26-28 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tejash Patel whose telephone number is (571) 272-4993. The fax phone number for this group is (571) 273-8300.

A handwritten signature in black ink, appearing to read 'Tejash Patel', with a long horizontal line extending to the right.

**TEJASH PATEL
PRIMARY EXAMINER**

November 23, 2005